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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,704	09/07/2004	Siegfried Oberhofer	CBZ-1341	3517

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EXAMINER
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MEHTA, BHISMA

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/506,704

Applicant(s)

OBERHOFFER, SIEGFRIED

Examiner

Bhisma Mehta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 45-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 45-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/11/2006.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, each of the first and second closure unites configured as one of a self-closing unit and a non-positive, detachable connection that non-positively and detachably joins each of the first insert and the second insert to one another must be shown or the feature(s) canceled from the claim(s). Also, the non-positive, detachable connection in the form of a clamp-connection, a plug-connection, a screw-connection and a bayonet connection must be shown or the feature(s) canceled from the claim(s). Also, the receiving unit and the dispensing unit being non-positively connected to one another via a clamp-connection, a plug-connection, a screw-connection and a bayonet connection must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification fails to mention a flow regulating agent, and a transport device which is integrated at least partially into the second closure unit. The specification also fails to mention a flowthrough opening and the walls of the receiving unit being elastic in order to be able to transport the substance by compression. The specification also fails to mention the receiving unit being configured to include a closed container.

### ***Claim Objections***

3. Claims 51 and 64 are objected to because of the following informalities: Claim 51 recites the limitations "the first closure unit" and "the second closure unit" in line 2. Claim 64 recites the limitation "the outer shape" in line 2. There is insufficient antecedent basis for these limitations in these claims.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 45, 53, and 58-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe (U.S. Patent No. 5,843,030) in view of Whittaker (U.S. Patent No. 6,648,181). Van Der Merwe discloses a device for administering fluid to an infant having a receiving unit (15) and a dispensing unit (14 or 6) with a dispensing opening (7). The dispensing unit comprises a hollow line (8). As to claims 45 and 61, see Figures 1b and 8. In lines 21-39 of column 4, Van Der Merwe discloses elastic walls for the receiving unit. As to claim 60, see lines 45-53 of column 6. As to claim 62, see Figure 1a. As to claims 63 and 64, in lines 18-32 of column 5, Van Der Merwe discloses forming the device as a unitary construction or in one piece. As to claim 65, in lines 18-32 of column 5, Van Der Merwe discloses various ways including the use of a screw or bayonet engagement to non-positively connect the various components of the device. As to claim 66, the receiving unit (15) is considered to be configured and capable of including a closed container.

Van Der Merwe discloses the device substantially as claimed. However, Van Der Merwe is silent on the outer form of the device being not directly functionally related to the administration. Whittaker discloses a device for administering fluid to an infant where the outer form of the device corresponds to that of a comic figure or a fantasy

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creature. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Van Der Merwe with a outer form corresponding to a comic figure or a fantasy creature as taught by Whittaker as both Van Der Merwe and Whittaker disclose devices for administering fluid to an infant and Whittaker teaches that it is well known to use outer forms for the device which are not directly functionally related to the administration such as comic figures or fantasy creatures.

6. Claims 46-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe in view of Whittaker as applied to claim 1 above, and further in view of Beaudette (U.S. Patent No. 7,172,085). Van Der Merwe and Whittaker disclose the device substantially as claimed. Even though, in lines 33-42 of column 1, Van Der Merwe discloses the need for a flow regulating agent or valve for flow control means, Van Der Merwe is silent on the specifics of a flow regulating agent disposed in proximity to the dispensing unit. Beaudette disclose a device for administering fluid to an infant where a flow regulating agent in the form of a valve (80) is used to prevent an undesired exiting of the fluid from the dispensing opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Van Der Merwe with a flow regulating agent in the form of a valve as taught by Beaudette as both Van Der Merwe and Beaudette teach that it is desirable to have flow regulating means and Beaudette teaches that it is well known to use a valve for regulating the flow of fluids.

As to claims 49-51, the device of Van Der Merwe includes a transport device in the form of a stamp or piston (60) which is integrated at least partially into a closure unit (61). As to claim 52, the transport device as shown in the container (17) is introduced into the receiving unit and the container (17) includes a flow through opening (16).

7. Claims 54, 55, and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe and Whittaker as applied to claim 1 above, and further in view of Ren (U.S. Patent No. 5,843,042). Van Der Merwe and Whittaker disclose the device substantially as claimed. Even though, Van Der Merwe discloses a receiving opening in the receiving unit (as seen in Figure 1b) and a first closure unit (51) that is configured to open and close the receiving opening, Van Der Merwe is silent on the device including a second closure unit to open and close the dispensing opening. Ren disclose a device for administering fluid to a person having a receiving unit (12), a dispensing unit (44), and a dispensing opening (46) where a closure unit (250) is provided to selectively open and close the dispensing opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the dispensing opening of Van Der Merwe with a closure unit for selectively opening and closing the dispensing opening as Ren discloses that it is desirable to provide a dispensing opening with a closure unit or cover to protect and cover the dispensing opening when the device is not being used.

8. Claims 56 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Der Merwe and Whittaker as applied to claim 1 above, and further in view of Pham (U.S. Patent Application Publication No. 2002/0082564). Van Der Merwe and

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Whittaker disclose the device substantially as claimed. However, Van Der Merwe and Whittaker are silent on the device including a first insert, a second insert and a non-positive, detachable connection. Pham discloses a device for administering fluid to an infant which includes a first insert (14) in the form of a cartridge, a second insert (18), and a non-positive detachable connection (62, 64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Van Der Merwe with a first insert, a second insert and a non-positive, detachable connection as taught by Pham as Pham teaches that it is well known to use first and second inserts which are detachably connected in a device for administering fluid to an infant as the first and second inserts may be replaced such that the device can be kept sterile and reused.

### ***Response to Arguments***

9. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bhisma Mehta whose telephone number is 571-272-3383. The examiner can normally be reached on Monday through Friday, 7:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



BM

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

